

**REMARKS**

Claims 2, 4-7 and 9-10 are pending in this application. The amendments set forth in the October 16, 2003 Amendment After Final Rejection have not been entered. The amendments set forth above replace the October 16 amendments, and amend relative to the claims as presented in the April 30, 2003 Amendment. By this Second Amendment After Final Rejection, claims 2, 4 and 6-7 are amended, claims 1, 3 and 8 are canceled without prejudice to or disclaimer of the subject matter contained therein, and claim 10 is added. The amendments presented above are identical to those presented in the October 16 Amendment After Final Rejection, except that (1) in addition to the earlier amendments, claims 2, 4, 6 and 7 are placed in independent form and (2) the phrase "axis perpendicular to" deleted from claim 4 by the October 16 Amendment After Final Rejection is not deleted in this Second Amendment After Final Rejection, because deleting it may have made the claim unclear. Reconsideration in view of the above amendments and following remarks is respectfully requested.

Entry of the amendments is proper under 37 CFR §1.116 since the amendments: (a) place the application in condition for allowance (for the reasons discussed herein); (b) do not raise any new issue requiring further search and/or consideration (since the amendments merely place dependent claims in independent form and make revisions that have already been already approved by the Advisory Action; and (c) place the application in better form for appeal, should an appeal be necessary. The amendments are necessary and were not earlier presented because they are made in response to arguments raised in the final rejection. Entry of the amendments is thus respectfully requested.

Applicant thanks the Examiner for the indication, set forth in the Advisory Action, that claims 2, 5, 7 and 9-10 contain allowable subject matter. By this Amendment, claims 2

and 7 are placed in independent form, which should result in the allowance of claims 2, 5, 7 and 9-10.

After entry of the foregoing amendments, in view of the cancellation of some rejected claims and the placing of other claims in independent form, and in view of the statements made in the Advisory Action, the only remaining issues are with respect to claims 4 and 6, currently rejected under 35 U.S.C. §103(a) over Sugaya in view of Iwanaga et al. (U.S. Patent No. 5,920,398) (Iwanaga). Applicant respectfully traverses this rejection, as discussed below.

Regarding claims 4 and 6, Applicant asserts that Sugaya and Iwanaga do not, even if combined, disclose, suggest or render obvious an optical positional deviation detecting apparatus wherein an image field position adjustment mechanism adjusts a field stop position so that an asymmetric focus characteristic of a line and space mark pattern image obtained exhibits a characteristic that is symmetric with respect to an axis perpendicular to a direction in which the positional deviation is detected.

First, Sugaya teaches an adjusting method in which the average value of the asymmetry of the right and left signal intensities of the light pattern is obtained with respect to a predetermined area, and the focus characteristic of the average value of the signal intensity is obtained, and an adjustment is made so that the asymmetry of the signal intensity of the predetermined area may be within a certain value (Figs. 9-12). Moreover, Sugaya teaches that the symmetry of aberration is corrected by correcting the position of each lens in the imaging optical system relative to the optical axis (col. 28). According to col. 28 of Sugaya, the index of adjustment, which is the average value of the difference in asymmetry between the right and the left signal intensities of the light pattern, is not varied even if the focus is changed with respect to a predetermined area.

In contrast, according to claims 4 and 6, adjustment is so made that the asymmetric focus characteristic is made symmetric with respect to an axis which passes through an axis

perpendicular to a direction in which the positional deviation is detected, such as an axis that passes through the center of the visual field. Therefore, the index of symmetry becomes symmetric with respect to, e.g., the center of view field, and also the symmetry of asymmetric values with respect to the center of view field is maintained even at the time of defocus.

Furthermore, Suguya teaches adjusting the aperture stop of the imaging optical system (col. 28, lines 1-6 and Figs. 1-2) by the eclipse of the imaging optical system. Eclipse adjustment, described also at beginning at page 16, line 26 of Applicant's specification, is quite different from the claimed adjustment of claims 4 and 6, which has the advantage of making the distribution of the aberration amount, which is rotationally asymmetric, symmetric on the right and on the left with respect to, e.g., the center of the image field. Suguya does not teach or suggest that such adjustment could be effected by adjusting the position of the illumination field stop.

For any of the foregoing reasons, Applicant asserts that independent claims 4 and 6 define patentable subject matter, and respectfully requests that the rejection of these claims be withdrawn.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 2,4-7 and 9-10 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,

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